

Message Text

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ACTION EUR-25

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-07 H-03 INR-11 L-03

NSAE-00 NSC-07 PA-04 RSC-01 PRS-01 SP-03 SS-20

USIA-15 SAJ-01 IO-14 ACDA-19 SAM-01 DRC-01 /137 W

----- 114544

R 241720Z JUL 74

FM USMISSION BERLIN

TO AMEMBASSY BONN

INFO SECSTATE WASHDC 3702

C O N F I D E N T I A L SECTION 1 OF 2 BERLIN 1241

E.O. 11652: GDS

TAGS: PGOV WB UR

SUBJECT: NPD IN 1975 BERLIN ELECTION

1. SUMMARY: EMBASSY AND DEPARTMENT WILL RECALL THAT ALLEGEDLY NEO-NAZI NPD WAS DISCUSSED NUMBER OF TIMES IN COURSE OF QUADRIPARTITE AGREEMENT NEGOTIATIONS, AND THAT ALLIED HAVE CONSISTENTLY BANNED INDIVIDUAL PLANNED PUBLIC ACTIVITIES OF PARTY IN RECENT YEARS, NPD HAS, HOWEVER, RECENTLY INDICATED IT INTENDS FOR FIRST TIME TO ENTER SLATE OF CANDIDATES IN CITY-WIDE BERLIN ELECTIONS SCHEDULED FOR MARCH 1975. SENAT CONSIDERS, AND ALLIES ARE INCLINED TO AGREE, THAT PRACTICE OF BANNING INDIVIDUAL ACTIVITIES AS THEY ARE ANNOUNCED WOULD BE INEFFECTIVE DURING LONG ELECTION CAMPAIGN EXPECTED TO BEGIN IN EARLY FALL. ALLIED MISSIONS ARE RECOMMENDING, THEREFORE, THAT MORE FLEXIBLE POLICY BE DEVELOPED UNDER WHICH ALLIES WOULD REQUIRE SENAT TO MONITOR NPD ACTIVITIES CLOSELY AND ADVISE ALLIES WHEN AND IF IT APPEARED THAT THERE WERE REASONABLE GROUNDS FOR FEARING A THREAT TO PUBLIC ORDER. ALLIES WOULD THEN CONSIDER WHETHER SPECIFIC ACTIVITY SHOULD BE PROHIBITED OR WHETHER SITUATION CALLED FOR MORE GENERAL BAN ON PARTY ACTIVITY DURING ELECTION CAMPAIGN. IN ABSENCE OF THREAT TO OR IMPAIRMENT OF PUBLIC ORDER, HOWEVER, NPD MIGHT ACTUALLY BE ABLE TO CONTEST ELECTION FAIRLY FREELY WHILE ALLIES WOULD BE

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PREPARED TO CITE PAST ACTIONS AND PRESENT CLOSE MONITORING

OF PARTY ACTIVITIES TO SOVIETS IF NEED BE AS DEMONSTRATION
THAT WE DO NOT INTEND TO LET PARTY GET OUT OF HAND IN
BERLIN. END SUMMARY.

2. WE CAME AWAY FROM JULY 16 MEETING WITH SENAT
AND ALLIED REPS WITH FOLLOWING IMPRESSIONS:

A. SENAT DOES NOT CONSIDER THAT THERE IS MIDDLE
COURSE FOR TREATMENT OF NPD DURING COMING ELECTION CAMPAIGN.
PART MUST OPERATE FULLY FREE AS ANY OTHER PARTY OR IT MUST
BE PREVENTED FROM OPERATING AT ALL, EITHER AS A RESULT OF
OUTRIGHT BAN OR BAN ON ACTIVITIES DURING SPECIFIED TIME
PERIOD EXTENDING THROUGH END OF CAMPAIGN. SENAT REJECTS A
MIDDLE COURSE BECAUSE IT CONSIDERS THAT NPD, IF RESTRICTED
IN ITS ACTIVITIES BUT PERMITTED TO CONTEST ELECTION, COULD
THROW RESULTS OF ELECTION INTO COURTS WITH CHARGES THAT
PROVISIONS OF THE BERLIN CONSTITUTION AND ELECTORAL LAW
PREVENTING DISCRIMINATION AGAINST ANY PARTY PARTICIPATING IN
AN ELECTION CAMPAIGN HAD BEEN VIOLATED. FURTHERMORE,
IMMENSE PRACTICAL DIFFICULTIES ARE FORESEEN IN DEFINING
WHAT ACTIVITIES WERE TO BE BANNED AND WHAT PERMITTED AND
THEN IN IDENTIFYING AND RESPONDING TO ACTIVITIES AS THEY
WERE ANNOUNCED DURING COURSE OF CAMPAIGN. WE MIGHT, IN
OTHER WORDS, BE FACED WITH DAILY DECISIONS AS TO WHETHER A
PARTICULAR ACTIVITY WAS PERMISSIBLE OR NOT WITH CONSIDERABLE
PROSPECT FOR CONFUSION AND VERY UNDESIRABLE CONTINUING
PUBLICITY.

B. SENAT IS RELUCTANT TO MAKE A FORMAL RECOMMENDATION
TO US IN WRITING THAT NPD BE BANNED OR THAT PARTICULAR
ACTIVITIES BE BANNED. REASON FOR ITS RELUCTANCE TO BE AS
FORTHCOMING AS IN PAST IS CONCERN THAT IT MIGHT EITHER BE
TAKEN TO COURT BY NPD AND CHARGED WITH IMPROPER INTERFERENCE
IN ELECTION OR AT LEAST BE SUBJECTED TO CONSIDERABLE
UNFAVORABLE PUBLICITY IN COURSE OF CAMPAIGN. SENAT IS,
HOWEVER, WILLING TO SEND US FORMAL COMMUNICATION THAT COULD
SERVE AS BASIS FOR ALLIED ACTION. SUCH A COMMUNICATION
MIGHT, FOR EXAMPLE, REFER TO GOVERNING MAYOR'S 1968
LETTER SUGGESTING NPD BE OUTLAWED AND ASKING FOR
KOMMANDATURA'S FORMAL VIEWS IN LIGHT OF UPCOMING
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ELECTION, OR IT MIGHT REFER TO PREVIOUS ALLIED ACTIONS
WITH RESPECT TO PLANNED INDIVIDUAL NPD ACTIVITIES OVER
PAST FEW YEARS AND ASK FOR ALLIED VIEWS. SENAT WOULD
APPARENTLY BE WILLING TO GO SO FAR IN SUCH A COMMUNICATION
AS TO MAKE A JUDGMENT THAT A PARTICULAR ACTIVITY OR GENERAL
PARTICIPATION OF NPD IN ELECTION RAISED QUESTION WITH
RESPECT TO PUBLIC ORDER. IT WOULD, HOWEVER, LEAVE
DEFINITIVE JUDGMENT ON PUBLIC ORDER QUESTION TO ALLIES.

3. AFTER HEARING SENAT OUT, ALLIES SOMEWHAT PESSIMISTIC THAT ORIGINAL PROPOSAL THAT CERTAIN ACTIVITIES BE BANNED AND CERTAIN OTHERS BE PERMITTED IS PRACTICABLE. WE CAN SYMPATHIZE WITH SENAT'S LEGAL AND PRACTICAL CONCERNS OVER SUCH A COURSE. THIS LEAVES US, HOWEVER, WITH TWO DIFFICULT PROSPECTS TO EXPLORE; EITHER NPD IS ALLOWED CONSIDERABLE FREEDOM AT LEAST APPROACHING THAT ENJOYED BY ANY OTHER PARTY, THUS RISKING POSSIBILITY THAT SOVIETS COULD CONSIDER THAT WE HAD RENEGAGED ON A COMMITMENT UNDERTAKEN IN CONTEXT OF QA, OR NPD IS SO RESTRICTED IN ITS ACTIVITIES THAT, FOR ALL INTENTS AND PURPOSES,

IT IS BANNED AS A PARTY, AT LEAST DURING THAT PERIOD-ELECTION--THAT IS RAISON D' ETRE OF POLITICAL PARTY. LATTER PROSPECT NATURALLY GIVES ALL OF US CONCERN THAT IT IS NOT FULLY CONSISTENT WITH DEMOCRATIC PRINCIPLES AND THAT IT IS WELL BEYOND ANY ACTIONS TAKEN AGAINST NPD IN FRG AND WOULD THEREBY DAMAGE LEGAL UNITY.

4. AS PRELIMINARY TO GRAPPLING WITH THIS DILEMMA, WE HAVE RESEARCHED OUR FILES IN AN EFFORT TO DETERMINE PRECISELY WHAT UNDERSTANDINGS MIGHT HAVE BEEN ENTERED INTO DURING QA NEGOTIATIONS. ALTHOUGH RECORD IS SOMEWHAT IMPRECISE, IT SEEMS CLEAR TO US THAT IT INCLUDES FOLLOWING ELEMENTS:

A. BANNING INDIVIDUAL NPD PUBLIC ACTIVITIES, AND THUS PREVENTING NPD FROM OPERATING AS AN EFFECTIVE POLITICAL PARTY IN BERLIN, PREDATES SIGNATURE OF QA. GOVERNING MAYOR'S RECOMMENDATION FOR FULL BAN DATES FROM 1968, AND FIRST SPECIFIC BAN ON A PLANNED ACTIVITY (PARTY CONGRESS) WAS IN 1969.

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B. SOVIETS PRESSED FOR FLAT OUTLAWING OF PARTY DURING QA NEGOTIATIONS, EITHER AS CONTRACTUAL ARRANGEMENT IN QA ITSELF OR SEPARATELY.

C. ALLIED AMBASSADORS WERE UNANIMOUS IN CHARACTERIZING SUCH AN ACTION AS REPUGNANT TO THEIR COUNTRIES' DEMOCRATIC PRINCIPLES, BUT ALL AGREED AT ONE TIME OR ANOTHER THAT SUCH A BAN MIGHT BE RECOMMENDED TO THEIR AUTHORITIES IF CERTAIN OTHER ELEMENTS OF NEGOTIATION TURNED OUT AS WE WISHED (THE MOST COMMON LINKAGE BEING WITH REGARD TO VISAS AND DENOMINATION OF AUTHORITIES COMPETENT TO CONCLUDE VARIOUS INNER-GERMAN ARRANGEMENTS).

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ACTION EUR-25

INFO OCT-01 ISO-00 SAJ-01 SAM-01 IO-14 ACDA-19 DRC-01 /062 W

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R 241720Z JUL 74

FM USMISSION BERLIN

TO AMEMBASSY BONN

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C O N F I D E N T I A L SECTION 2 OF 2 BERLIN 1241

D. DURING NEGOTIATIONS ALLIED AMBASSADORS REPEATEDLY INDICATED THAT ALTERNATIVE TO FLAT BANN WAS EFFECTIVE ACTION TO RESTRICT PUBLIC MANIFESTATIONS OF PARTY ALONG LINES EMPLOYED BY ALLIES FOR NUMBER OF YEARS. SOVIETS SHOWED NO PARTICULAR INTEREST IN HAVING ALLIES FORMALIZE SUCH A PSEUDO-BAN BY ISSUING BK/O THAT WOULD GENERALIZE TYPE OF ACTION THEY HAD BEEN TAKING ON CASES BY CASE BASIS. SOVIETS EVENTUALLY DROPPED INSISTENCE ON FORMAL BAN AND EXPRESSED SOME UNDERSTANDING FOR DIFFICULTIES SUCH A STEP WOULD ENTAIL FOR ALLIES. THEY CONTINUED TO EXPECT, HOWEVER, THAT PARTY WOULD BE EFFECTIVELY CONTROLLED.

E. SOME THOUGHT WAS GIVEN BY ALLIES IN SPRING 1972 TO INCLUDING GENERAL PROHIBITION ON NPD PUBLIC ACTIVITIES IN WHAT EVENTUALLY EMERGED AS BAN ON PARTICULAR MEETING, BUT IDEA WAS DROPPED BECAUSE OF CONCERN THAT IT WOULD CAUSE COMPLICATIONS FOR FRG IN COURSE OF DEBATE ON EASTERN TREATIES. WHILE DECIDING TO DO LESS AT THAT TIME THAN GENERAL BAN, ALLIES CONSIDERED IT POSSIBLE THAT THERE WOULD BE SOME OBJECTION FROM SOVIETS THAT WE HAD NOT FULLY MET OUR COMMITMENT, BUT THERE APPEARS TO HAVE BEEN NO ADVERSE REACTION FROM SOVIETS TO THIS DAY WITH RESPECT TO LEVEL OF OUR CONTROL OF NPD.

5. FROM ALL THIS WE CONCLUDE THAT WHILE WE DON NOT HAVE FREE HAND IN DECIDING HOW TO DEAL WITH NPD, WE DO HAVE CERTAIN AMOUNT OF FLEXIBILITY. SOVIETS WILL EXPECT US TO CONTROL NPD, PERHAPS TO PREVENT IT FROM ENGAGING IN ANY ACTIVITIES IN BERLIN
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THAT BRING IT BEFORE PUBLIC, BUT AT LEAST FROM EXERCISING ANY MAJOR PUBLIC ROLE, AND WE HAVE GIVEN COMMITMENT THAT WHILE VAGUE IN ITS EXACT OUTLINES IS NONETHELESS A COMMITMENT.

6. OUR TENTATIVE CONCLUSION IS THAT THERE ARE TWO MAIN COURSES OF ACTION TO CONSIDER (OTHER THAN SEEKING TO WIN SENAT OVER TO PARTIAL LIMITATION OF NPD ACTIVITIES). SCENARIO FOR THE FIRST COURSE, WHICH COULD BE DESCRIBED AS MINIMUM POSSIBLE LIMITATION ON PARTY, MIGHT BE AS FOLLOWS:

A. SENAT SENDS ALLIES LETTER CITING GOVERNING MAYOR'S LETTER OF 1968, TAKING NOTE OF OUR PREVIOUS ACTIONS WITH REGARD TO INDIVIDUAL PLANNED NPD ACTIVITIES, POINTING OUT THAT 1975 ELECTION CAMPAIGN IS ABOUT TO BEGIN AND THAT THERE IS POSSIBILITY THAT NPD PARTICIPATION WILL PRODUCE SITUATIONS THREATENING TO PUBLIC ORDER.

B. KOMMANDATURA RESPONDS WITH BK/L OR BK/O EXPRESSING ITS DETERMINATION THAT NPD NOT IMPAIR PUBLIC ORDER, STATING WILLINGNESS TO TAKE APPROPRIATE ACTION IN EVENT ANY THREAT ARISES (REFERENCING PREVIOUS BANNING ORDERS SO THAT POINT IS CLEAR) AND REQUIRING SENAT TO MONITOR ACTIVITIES OF NPD CAREFULLY AND ADVISE US WHENEVER IN ITS JUDGMENT ANY PARTICULAR ACTIVITY PRESENTS SERIOUS THREAT.

C. IT WOULD BE UNDERSTOOD BETWEEN ALLIES AND SENAT THAT SENAT WOULD MAKE SUCH REPORT TO ALLIES WHEN IT POSSESSED REASONABLE EVIDENCE OF DANGER. TEST WOULD THUS BE SOMEWHAT MORE STRINGENT THAN AUTOMATIC ONE THAT HAS BEEN USED IN RECENT YEARS, AND NPD WOULD HAVE SOME CHANGE TO OPERATE IN ELECTION PROVIDED IT COULD DO SO WITHOUT ACTUALLY CAUSING SERIOUS DISTURBANCE.

D. IF SENAT OBTAINED INFORMATION THAT PARTICULAR PLANNED ACTIVITY WAS LIKELY TO LEAD TO TROUBLE OR IN FACT AN ACTIVITY HAD PRODUCED DISTURBANCE, WE WOULD THEN HAVE OPTION OF TAKING ACTION AGAINST NPD. WE WOULD HAVE TO DETERMINE AT THAT TIME WHETHER SITUATION CALLED FOR LIMITED BAN ON PARTICULAR ACTIVITY OR TYPE OF ACTIVITY OR WHETHER ALL ACTIVITIES OF NPD DURING BALANCE OF CAMPAIGN SHOULD BE PROHIBITED. IN ANY EVENT, OBJECTIVE NATURE OF PROBLEM MIGHT MAKE A BANNING

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ACTION MORE PALATABLE.

E. IF THE SOVIETS WERE TO QUERY OUR ACTION, WE WOULD

CITE BK/L OR BK/O AS EVIDENCE THAT WE WERE CLOSELY MONITORING AND CONTROLLING NPD TO ENSURE THAT IT DID NOT CAUSE PUBLIC DISTURBANCES IN BERLIN.

7. ALTERNATIVE SCENARIO BUT IN OUR JUDGMENT A MUCH LESS DESIRABLE ONE) WOULD BE FOR US TO RESPOND TO SENAT LETTER DESCRIBED IN PARAGRAPH 6 (A) ABOVE WITH BK/O BANNING ALL PUBLIC ACTIVITIES OF NPD FOR SPECIFIED TIME PERIOD COVERING ENTIRE ELECTION CAMPAIGN. ORDER WOULD ALSO PRECLUDE NPD FROM ENTERING SLATE OF CANDIDATES IN ELECTION. WHILE THIS WOULD GO SOMEWHAT FURTHER THAN WE HAVE UNTIL NOW, IT MIGHT BE CONSIDERED LOGICAL EXTENSION OF OUR PREVIOUS POLICY OF PREVENTING ALL PUBLIC MANIFESTATIONS OF PARTY, WHILE NOT ACTUALLY BEING AN EXPRESS OUTLAWING. WE WOULD CONSIDER THAT WE HAVE A COMMITMENT TO GO THIS FAR ONLY IF NOTHING LESS IS PRACTICABLE. WE WOULD BE MOST RELUCTANT, HOWEVER, TO SEE BERLIN GET SO FAR IN FRONT OF FRG IF THERE IS ANOTHER VIABLE WAY.

8. WHILE ALLIED MISSIONS HAVE SOMEWHAT VARYING INTERPRETATIONS OF QA DISCUSSIONS WITH SOVIETS ON NPD (BRITISH INCLINED TO DOUBT EXISTENCE OF ANY COMMITMENT TO TAKE RESTRICTIVE ACTION AND FRENCH INCLINED TO FEEL THERE WAS IMPRECISE AND INFORMAL COMMITMENT, ALLIES AGREE FIRST ALTERNATIVE OUTLINED PARA 6 ABOVE IS BEST AVAILABLE, AND BRITISH AND FRENCH ARE SO RECOMMENDING TO EMBASSIES. WE WOULD HOPE TO BE ABLE TO SIT DOWN AGAIN WITH SENAT IN NEAR FUTURE TO WORK OUT DETAILS OF SCENARIO SO THAT AGREED COURSE OF ACTION CAN BE IMPLEMENTED BY SEPTEMBER 1 IN TIME FOR BEGINNING OF BERLIN ELECTION CAMPAIGN. NPD COULD BE EXPECTED TO INITIATE ELECTION ACTIVITIES SHORTLY AFTER THAT DATE WITH EFFORTS TO OBTAIN SUFFICIENT SIGNATURES OF VOTERS ON PETITIONS TO QUALIFY SLATES OF CANDIDATES FOR HOUSE OF REPRESENTATIVES AND LOCAL (BEZIRK) COUNCILS.

9. ACTION REQUESTED: EMBASSY REACTION TO RECOMMENDED COURSE OF ACTION IN PARA 6. KLEIN

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: ELECTION LAW, POLITICAL PARTY BANNING, LOCAL ELECTIONS, ELECTION CAMPAIGNS
Control Number: n/a
Copy: SINGLE
Draft Date: 24 JUL 1974
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: kelleyw0
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1974BERLIN01241
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Film Number: D740201-0514
From: BERLIN
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1974/newtext/t19740723/aaaaatht.tel
Line Count: 313
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION EUR
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 6
Previous Channel Indicators:
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: kelleyw0
Review Comment: n/a
Review Content Flags:
Review Date: 08 MAY 2002
Review Event:
Review Exemptions: n/a
Review History: RELEASED <08 MAY 2002 by boyleja>; APPROVED <26 FEB 2003 by kelleyw0>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: NPD IN 1975 BERLIN ELECTION
TAGS: PGOV, PINT, WB, UR, NPD
To: BONN
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005